

Draft Gambling Venue Policy and Board Venue Policy report

TO	Thames-Coromandel District Council
FROM	Emma Wright - Strategic Planner and Policy Analyst
DATE	28 January 2015
SUBJECT	Consultation of the Draft Gambling Venue Policy and Board Venue Policy

1 Purpose of report

This report seeks Council approval for the Draft Gambling Venue Policy and Board Venue Policy to be released for public consultation. Council is required to have these policies in place.

2 Background

At their 7 May 2014 meeting, the Policy Committee requested that the Draft Gambling Venue Policy and Board Venue Policy be reviewed. The Gambling Act and the Racing Act require these policies to be reviewed every three years. The policies were last reviewed in 2011.

The Gambling Venue Policy and Board Venue Policy regulate any new class 4 gambling machines ('pokie machines') or new board venues ('TABs') in the District. These policies do not allow Council to redact an existing licence.

Gambling in New Zealand is primarily regulated by government through the Department of Internal Affairs (DIA). For example, the DIA is empowered to suspend for up to six months, or cancel entirely, a class 4 venue licence if it is satisfied that any of a range of grounds are no longer being met. This includes breaches of conditions preventing pokie machines being used unless the primary activity of the venue is offered and available (note that class 4 gambling is not allowed to be the primary purpose).

In contrast, local government's role is limited to specifying whether or not any new class 4 venues may be established within their jurisdiction and, if so, where these may be located. Any venues seeking to merge or relocate within a jurisdiction must also seek local government consent in addition to Ministerial licensing approval.

Council currently has a 'sinking lid' approach in these policies which means the number of pokie machines will decrease over time. As they stand, the policies do not provide for merging or relocations.

A social impact assessment was commissioned by Council in 2014 and presented to the Policy Committee at their May meeting. It noted that Thames-Coromandel has a 'medium risk' community gambling profile. This supports the continuation of the sinking lid approach. The social impact assessment is available on request.

3 Issue

The Policy Committee requested in their May 2014 meeting that Council staff amend the current policy to allow for relocation and merging of Class 4 gambling venues as provided for under the Gambling (Gambling Harm Reduction) Amendment Act. 2013.

4 Discussion

Proposed policy

The changes proposed affect the Class 4 Gambling Venue Policy. There are no substantial changes proposed to the Board Venue policy.

The draft policy attached makes provision for relocation and merging of class 4 gambling venues. The changes have been made with the intention of maintaining the existing sinking lid policy, but allow for flexibility for individual business owners.

The draft policy has been updated for clarity and any unnecessary background or operational information has been removed.

1. Relocations

It is proposed that the following be included in the policy:

Council will grant consent for relocation of existing class 4 venues if;

- *due to a natural disaster or fire, the licensed premises is unfit to continue to operate, or;*
- *the property is acquisitioned under the Public Works Act 1981.*

Relocation is subject to the location of the proposed new premises being an appropriate distance from;

- *educational facilities, places of worship and other community facilities, and;*
- *other licensed class 4 venues at the time of application.*

The number of class 4 gaming machines at the new premises must be the same or less than the existing class 4 venue.

Council would allow temporary relocation to a site which complies with the conditions above, in the event where the class 4 venue was to re-establish in its original location after any repairs if applicable.

2. Merges

It is proposed that the following be included in the policy:

Council will grant consent for the merger of two or more class 4 venues. The maximum number of gaming machines at the merged venue shall be the lesser of;

- *The number of merging venues multiplied by nine, or;*
- *The total number of machines in the merging venues prior to the merger.*

Council will grant consent once proof has been provided that the original class 4 venue licences have been cancelled as per s95(6)(a) of the Gambling Act 2003.

Other Councils' approach

After considering its inclusion, Hauraki District Council resolved to not provide for relocations in their policy. Because the criteria proposed is so restrictive and would only apply in a crisis situation, it was suggested that s80 of the Local Government Act 2002 was available to them. Section 80 of the Local Government Act states:

80 *Identification of inconsistent decisions*

- (1) *If a decision of a local authority is significantly inconsistent with, or is anticipated to have consequences that will be significantly inconsistent with, any policy adopted by the local authority or any plan required by this Act or any other enactment, the local authority must, when making the decision, clearly identify—*
 - (a) *the inconsistency; and*
 - (b) *the reasons for the inconsistency; and*
 - (c) *any intention of the local authority to amend the policy or plan to accommodate the decision.*
- (2) *Subsection (1) does not derogate from any other provision of this Act or of any other enactment.*

It is suggested that Council does not rely on s80 to provide for relocations and instead makes its position clear through including the relocation provision in the draft policy as above.

The majority of District Councils in New Zealand provide for class 4 venue mergers. It is a tool which is used to reduce both the number of pokie machines and the spread of class 4 venues through consolidation.

Consultation

This policy is required to be consulted on in accordance with special consultative procedure as per the Local Government Act 2002. For efficiency it is proposed that this consultation be run alongside consultation on the Cemeteries Bylaw and the Psychoactive Product Retail Location Policy which will also be run as special consultative procedures.

Consultation is proposed to begin on 9 February and end on 9 March. Hearings and deliberations for all three documents would also be run together, with hearings proposed to be held on 15 April and deliberations on 13 May.

A draft communication strategy is attached to the Psychoactive Products Retail Location Policy report in this agenda outlining the proposed approach throughout this consultation.

5 Suggested Resolution(s)

That the Thames-Coromandel District Council:

3. Receives the 'Consultation of the Draft Gambling Venue Policy and Board Venue Policy' report, dated 28 January 2015.
4. Approves the attached Draft Gambling Venue Policy and Board Venue Policy and statement of proposal for public consultation.

References-Tabled/Agenda Attachments

Attachment A *Statement of Proposal - Draft Class 4 Gambling Venue Policy and Board Venue Policy*

Attachment B *Draft Class 4 Gambling Venue Policy and Board Venue Policy*

Attachment A

Attachment A - Statement of Proposal - Draft Gambling Venue Policy and...

Attachment B

Attachment B - Draft Class 4 Gambling Venue Policy and Board Venue Pol...